IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6286 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KEKI PHIROZSHA SIGANPORIA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6286 of 2003

MR HARIN P RAVAL for Petitioner No. 1-3

MS DS PANDIT, LD.AGP for Respondent No. 1

MR RM CHHAYA for Respondent No. 2

..... for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 16/09/2003

ORAL JUDGEMENT

1. Rule. Ms.D.S.Pandit, learned AGP waives service

of rule on behalf of respondentNo.1-State and Mr.R.M.Chhaya, learned advocate waives service of rule on behalf of respondents No.2 and 3.

2. The present petition has been filed under Article 226 of the Constitution of India, challenging the decision of the respondent No.2 as contained in communication dated 27th February, 2003, of not considering the plans for sanction of the land of Revenue Survey Nos.459/1, 459/2 and 460 of village Vadva, District Bhavnagar, on the ground of the land being reserved under the provisions of the Gujarat Town Planning & Urban Development Act, 1976.

3. It is a case of the petitioner that as per the proposal contained in the draft development plan, the subject lands of Survey Nos.459/1, 459/2 and 460 were designated as being reserved for socially and economically weaker sections of the society under Section 12(2) of the said Act. It is further stated that the final development plan was notified as sanctioned in the year 1985 under notification dated 8.11.85 and brought into force with effect from 1.1.86 was so reserved for socially and economically weaker sections of the society. Since the land in question was not acquired for the period of 10 years from the date of finalisation of the development plan, the petitioner issued a notice dated 26th June, 2000. The petitioner raised objection on 6.8.99 and thereafter sent reminders on 26.6.2000. The petitioner addressed a notice to the several authorities stating that the continuation of reservation in the final revised development plan for socially and economically weaker sections of the society and non-acquisition of the lands either under the Land Acquisition Act, 1894 at market price or purchase by agreement amounted to freezing the right of the land owners for almost about 15 to 18 years and, therefore, it was pointed that as per the request made by the petitioner on 13.12.99, the land should either be purchased or reservation should be de-notified. The petitioner thereafter received reply on 13.11.2000 to the effect that according to the scheme of Bhavnagar Area Development Authority, the lands were situated in the industrial zone whereas the said lands were reserved in the revised development plan for socially and economically weaker sections of the society and hence the petitioner's request was not accepted. Since the petitioner's request was not acceded to, the petitioner has filed the present petition seeking relief from the Court to the effect that this Court should declare that the reservation of subject lands bearing Survey Nos.459/1, 459/2 and 460 of village Vadva,

District Bhavnagar has lapsed and further declare that the petitioners are entitled for development of the said land in accordance with law.

4. Mr.Harin Raval, learned advocate appearing for the petitioners has submitted that the issue raised in the present petition is squarely covered by the decision of this Court in the case of Palitana Sugar Mill Pvt.Ltd. & Anr. Vs. State of Gujarat & Others reported in 42(4) GLR 3048 which is confirmed by the Hon'ble Supreme Court in the case of Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd. & Ors. reported in 44(2) GLR 1154. In view of the aforesaid decisions, this Court has also disposed of number of petitions denotifying the reservation of the land and giving certain directions to the authorities with regard to the sanction of the plan.

5. Following the aforesaid binding decisions of this Court as well as the decision of the Hon'ble Supreme Court, the prayer made in the present petition with regard to denotifying the reservation of the land in question is granted. However, further prayer with regard to sanction of the plan for development of the land in question is concerned, the respondent authorities are hereby directed to decide the same in accordance with law, and subject to the condition that, if all other statutory requirements are fulfilled by the petitioner, the same should be granted as expeditiously as possible preferably within the period of three months from the date of compliance of all legal formalities in this regard.

6. With these directions, the present petition is disposed of. Rule made absolute to the above extent with no order as to costs. Direct service is permitted.

(K.A. Puj, J.)

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